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TOWNSEND and TOWNSEND and CREW LLP

By:_____/Stacy Villarose/_____

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No. 2699
Nathaniel Blake Scholl et al.	Examiner: RETTA, YEHDEGA
Application No.: 10/748,759	Technology Center/Art Unit: 3622
Filed: December 30, 2003	APPELLANTS' BRIEF UNDER 37 CFR §41.37
For: METHOD AND SYSTEM FOR GENERATING AND PLACING KEYWORD-TARGETED ADVERTISEMENTS	

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

       Further to the Notice of Appeal filed on October 19, 2010, for the above-referenced application, Appellants submit this Brief on Appeal.

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1. REAL PARTY IN INTEREST

All right, title, and interest in the present application is assigned to Amazon Technologies, Inc., which is a subsidiary of Amazon.com, Inc. of Seattle, Washington. Therefore, Amazon Technologies, Inc. is the real party in interest.

2. RELATED APPEALS AND INTERFERENCES

A previous Notice of Appeal was filed on January 31, 2008. However, the appeal was withdrawn by the filing of a Request for Continued Examination (RCE) on March 31, 2008.

3. STATUS OF CLAIMS

Claims 3, 5, 15, 22-34 have been previously canceled from the present application.

Claims 1, 2, 4, 6-14, 16-21, 35 and 36 are currently pending.

Claims 1, 2, 4, 6-14, 16-21, 35 and 36 stand rejected under 35 U.S.C. § 103.

Currently pending claims 1, 2, 4, 6-14, 16-21, 35 and 36 are the subject of this appeal. No other claims are pending.

4. STATUS OF AMENDMENTS

Claims 1-34 were included in the application as filed. The response filed on July 20, 2007, amended claims 1, 4, 6, 7, 9, 11, 12, 16, 22 and 25 and canceled claims 3 and 5. The response filed on January 31, 2008, amended claim 1 and canceled claims 22-34. The response filed on March 31, 2008 , amended claims 1, 4 and 9-16. The response filed on October 1, 2008, amended claims 1, 4, 9 and 16, canceled claim 15, and added claim 35. The response filed on April 3, 2009, amended claims 1, 9 and 35. The response filed on August 31, 2009, amended claims 1, 9, 13-14 and 35. The response filed on January 29, 2010, amended claims 1, 7, 9-14, 16-18, 20-21 and 35 and added claim 36. The response filed on May 4, 2010, amended claims 1, 4, 6, 9-14, 16, 20, 35 and 36. All amendments have been entered.

5. SUMMARY OF CLAIMED SUBJECT MATTER

The following is a concise explanation of the subject matter defined in each of the independent claims involved in the present Appeal. Where deemed appropriate, the explanation includes references to the specification by paragraph and/or page and line number, as well as references to the appropriate drawing(s) and reference character(s). The references are meant to be examples only, and do not include references to every recitation or suggestion of such elements in the specification and/or drawings. The use of these example references is not intended to limit specific claims to specific embodiments or descriptions contained therein.

<div align="center">Claim 1</div>

Claim 1 is directed to system for requesting advertisements to be placed along with content on behalf of an advertiser in association with at least one keyword. *See, e.g.,* paragraph 16; Fig. 1. A plurality of advertisement generators that each use at least one algorithm to identify search terms corresponding to an item, determine at least one item-specific visual element, create a link to information about the item, and generate an advertisement set for the item that includes at least one associated advertisement having the item-specific visual element, the link, and at least one search term matching the at least one keyword. *See, e.g.,* paragraphs 16, 18-19, 35; Figs. 1, 9. A fee calculator that at least calculates fee amounts for each of the advertisement sets generated by the advertisement generators based at least in part on anticipated profitability of the advertisement sets. *See, e.g.,* paragraphs 16, 20, 26, 28-31; Figs. 1, 5.

An advertisement manager that receives from the advertisement generators advertisement sets, receives from the fee calculator a fee amount for each of the generated advertisement sets, and determines whether an advertisement set is currently submitted to an advertisement placement service for a set of keywords including the at least one keyword. *See, e.g.,* paragraphs 16, 20; Figs. 1, 6, 7. When an advertisement set is not currently submitted to the advertisement placement service for the set of keywords, the advertisement manager selects one of the generated advertisement sets for submission to the advertisement placement service. *See, e.g.,* paragraphs 16, 26, 33; Figs. 1, 6, 7. When an advertisement set is currently submitted to the advertisement placement service for the set of keywords, the advertisement manager determines whether at least one of the generated advertisement sets would avoid conflict with the submitted

advertisement set with respect to the at least one search term of the submitted advertisement set. *See, e.g.,* paragraphs 26, 33; Figs. 1, 3, 5-7. When at least one of the generated advertisement sets is determined to avoid conflict, the advertisement manager selects one of the generated advertisement sets determined to avoid conflict. *See, e.g.,* paragraphs 26, 33; Figs. 1, 3, 5-7.

An advertisement submitter that, when an advertisement set is not currently submitted to the advertisement placement service for the set of keywords, receives from the advertisement manager the selected advertisement set and the fee amount for the selected advertisement set and sends to the advertisement placement service a request to place the selected advertisement set along with content associated with the keyword at the fee amount of the selected advertisement set. *See, e.g.,* paragraphs 16, 20, 26, 33; Figs. 1, 3, 5-7.

Claim 9

Claim 9 is directed to a method in a computer system for placing advertisements for an advertiser offering an item for consumption. *See, e.g.,* paragraph 16; Fig. 1. The method comprises using each of a plurality of different algorithms to at least identify search terms corresponding to the item, determine at least one item-specific visual element, create a link to information about the item, and generate an advertisement set for the item that each include at least one associated advertisement having the item-specific visual element, the link, and one or more of the identified search terms. *See, e.g.,* paragraphs 16, 17, 20, 29; Figs. 1, 9.

The method further comprises submitting one or more of the generated advertisement sets to an advertisement placement service with a bid amount and determining whether at least one of the generated advertisement sets would avoid conflict with the submitted one or more advertisement sets with respect to the at least one search term of the submitted one or more advertisement sets. *See, e.g.,* paragraphs 16, 20, 26, 33; Figs. 1, 3, 5-7. When at least one of the generated advertisement sets is determined to avoid conflict, the method comprises selecting, based at least in part on the identified search terms of the submitted one or more advertisement sets, an unsubmitted advertisement set that avoids conflict with the submitted one or more advertisement sets and submitting the selected unsubmitted advertisement set to the advertisement placement service. *See, e.g.,* paragraphs 16, 20, 26-27, 29, 33; Figs. 1, 3, 5-7.

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Claim 35

Claim 35 is directed to a computer program product embedded in a computer-readable medium and including processor-executable instructions for placing advertisements. *See, e.g.,* paragraph 16; Fig. 1. The computer program product comprises program code for using a plurality of different algorithms to identify search terms corresponding to the item, determine at least one item-specific visual element, create a link to information about the item, and generate an advertisement set for the item that each include at least one associated advertisement having the item-specific visual element, the link, and at least one search term of the identified search terms. *See, e.g.,* paragraphs 16, 18-19, 35; Figs. 1, 9. The computer program product further comprises program code for associating each generated advertisement set with a corresponding bid amount, program code for determining whether an advertisement set is currently submitted for the search terms included in the generated advertisement sets, and program code for, when an advertisement set is not currently submitted for the search terms included in the generated advertisement sets, submitting a request specifying a selected advertisement set for the set of keywords. *See, e.g.,* paragraphs 16, 20, 26, 33; Figs. 1, 3, 5-7.

The computer program product further comprises program code for, when one or more advertisement sets are currently submitted for at least one search term included with at least one corresponding generated advertisement set, determining whether one or more unsubmitted generated advertisement sets would avoid conflict with the one or more currently submitted advertisement sets with respect to the at least one search term of the one or more currently submitted advertisement sets. *See, e.g.,* paragraphs 16, 20, 26, 33; Figs. 1, 3, 5-7. When one or more of the generated advertisement sets is determined to avoid conflict, the computer program product comprises program code for selecting one of the unsubmitted generated advertisement sets determined to avoid conflict; and submitting the selected one or more unsubmitted generated advertisement sets determined to avoid conflict. *See, e.g.,* paragraphs 16, 20, 26, 33; Figs. 1, 3, 5-7.

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Issue 1: Whether claims 1, 2, 4, 6-14, 16-21, 35, and 36 were properly rejected under 35 U.S.C. §103(a) as being unpatentable over Calabria et al. (US 2005/0137939 A1) (hereinafter "Calabria") in view of Ford et al. (US 6,606,644 B1) (hereinafter "Ford").

For the purposes of this Appeal, Appellants will treat Calabria and Ford as prior art. However, Appellants reserve the right to later disqualify these references as prior art.

7. ARGUMENT

Under 35 U.S.C. § 103, the Examiner must provide evidence which as a whole shows that the legal determination sought to be proved (*i.e.*, the reference teachings establish a *prima facie* case of obviousness) is more probable than not. M.P.E.P. § 2142. Accordingly, "the key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." M.P.E.P. § 2142; *see KSR International Co. v. Teleflex, Inc.*, 550 U.S.398, 82 USPQ 2d 1385, 1395-97 (2007).

As set forth in detail below, Applicant submits that the rejection of claims 1, 2, 4, 6-14, 16-21, 35, and 36 under 35 U.S.C. § 103(a) in the Supplemental Final Office Action mailed August 10, 2010 ("the Final Office Action") is deficient in one or more of these respects and therefore fails to establish a prima facie case of obviousness. Accordingly, Applicants respectfully request that the rejection be overturned.

<p align="center">Independent Claim 1</p>

Claim 1 recites a system for requesting advertisements to be placed along with content on behalf of an advertiser in association with at least one keyword, comprising:

one or more computer systems that collectively implement at least:

a plurality of advertisement generators that each use at least one algorithm to identify search terms corresponding to an item, determine at least one item-specific visual element, create a link to information about the item, and generate an advertisement set for the item that includes at least one associated advertisement having the item-specific visual element, the link, and at least one search term matching the at least one keyword;

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a fee calculator that at least calculates fee amounts for each of the advertisement sets generated by the advertisement generators based at least in part on anticipated profitability of the advertisement sets;

an advertisement manager that, at least:

receives from the advertisement generators advertisement sets,

receives from the fee calculator a fee amount for each of the generated advertisement sets,

determines whether an advertisement set is currently submitted to an advertisement placement service for a set of keywords including the at least one keyword,

when an advertisement set is not currently submitted to the advertisement placement service for the set of keywords, selects one of the generated advertisement sets for submission to the advertisement placement service; and

when an advertisement set is currently submitted to the advertisement placement service for the set of keywords, determines whether at least one of the generated advertisement sets would avoid conflict with the submitted advertisement set with respect to the at least one search term of the submitted advertisement set and, when at least one of the generated advertisement sets is determined to avoid conflict, selects one of the generated advertisement sets determined to avoid conflict; and

an advertisement submitter that, when an advertisement set is not currently submitted to the advertisement placement service for the set of keywords at least:

receives from the advertisement manager the selected advertisement set and the fee amount for the selected advertisement set, and

sends to the advertisement placement service a request to place the selected advertisement set along with content associated with the keyword at the fee amount of the selected advertisement set.

A. Calabria Does Not Disclose, Teach or Suggest the "Plurality of Advertisement Generators" Recited in Claim 1

Claim 1 recites a system that, among other things, implements "a plurality of advertisement generators." Each of the advertisement generators "generate an advertisement

set." More particularly, according to claim 1, each of the advertisement generators "identify search terms corresponding to an item," "determine at least one item-specific visual element," "create a link to information about the item", and "generate an advertisement set for the item that includes at least one associated advertisement having the item-specific visual element, the link, and at least one search term matching the at least one keyword."

For example, and as discussed of record, Calabria teaches a "server-based method of automatically generating a plurality of bids for an advertiser for placement of at least one advertisement in associated with a search results list" (paragraph 21). Calabria teaches "receiving at least one candidate advertisement from the advertiser" then "creating a list of candidate keywords" and "calculating a bid amount for each advertisement-keyword pair" (paragraph 21). Calabria teaches "an advertisement selection agent (54)" that "includes an algorithm for selection of an advertisement from the advertisement database (46) that is to be matched with a given keyword of keyword combination" (paragraphs 52 and 121). Calabria uses "a bidding agent (50)" to "select a corresponding keyword advertisement" and determine a bid to be submitted (paragraph 42). Calabria thus is directed to selecting an ad from a set of ads, matching candidate keywords with the selected ad, and determining a bid price for the combination.

Calabria does not however, disclose, teach, or suggest "a plurality of advertisement generators" as recited in Applicants' claim 1, where each of the generators "identify search terms corresponding to an item," "determine at least one item-specific visual element," "create a link to information about the item", and "generate an advertisement set for the item that includes at least one associated advertisement having the item-specific visual element, the link, and at least one search term matching the at least one keyword."

With respect to the elements of claim 1 reciting "a plurality of advertisement generators" each of which "identify search terms corresponding to an item," "determine at least one item-specific visual element," "create a link to information about the item", and "generate an advertisement set for the item that includes at least one associated advertisement having the item-specific visual element, the link, and at least one search term matching the at least one keyword,"

the Office Action at page 2 alleges that these elements are disclosed by Calabria at paragraphs

52-55, 69-72, and 121. Applicants respectfully disagree.

In particular, with respect to the element of claim 1 reciting "a plurality of advertisement

generators," the Office Action at page 2 alleges that this element is made obvious by the

keyword selection agent 52 disclosed in Calabria at paragraphs 52-55, 69-72, and 121. However,

as indicated as indicated in Calabria at paragraph 52, the "keyword selection agent 52 includes

an algorithm for selection of keywords and keyword combinations that are included in the

keyword database 48." Further, paragraph 54 of Calabria discloses:

> the algorithm in the keyword selection agent 52 can select
> optimized keywords: i) based on the content of the advertiser web
> site 18, ii) for each advertisement in the advertisement database 46
> based on the content of the advertisement, iii) based on the
> frequency that certain keywords are included in queries to the
> keyword search engine, iv) from information provided by the
> advertiser feedback database 42 in the keyword search engine 12,
> v) from information provided via input device 19 , and/or vi) from
> information provided by other relevant sources.

The keyword selection agent 52 of Calabria simply selects keywords and keyword combinations

from a database, and in no way discloses, teaches, or suggests "a plurality of advertisement

generators" that each "identify search terms corresponding to an item," "determine at least one

item-specific visual element," "create a link to information about the item," and "generate an

advertisement set for the item that includes at least one associated advertisement having the item-

specific visual element, the link, and at least one search term matching the at least one keyword,"

as recited in claim 1.

In addition to the keyword selection agent 52, Calabria's paragraphs 52-55 are directed to

various other aspects of a "keyword advertisement management system 14" such as a "bidding

agent 50," an "advertisement selection agent 54," and an "ROAI agent 56." These other aspects

of the keyword advertisement management system 14 of Calabria described in paragraphs 52-55

similarly perform as their names suggest. Specifically, according to Calabria at paragraphs 52-

55, the bidding agent 50 determines optimized bids for keyword advertising, the advertisement

selection agent 54 includes an algorithm for selection of an advertisement from the advertisement database, and the ROAI agent 56 provides an estimate of return on investment for one or more bids associated with a given keyword/keyword combination and matched keyword advertisement. Paragraphs 52-55 of Calabria do not disclose, teach, or suggest "a plurality of advertisement generators" that each, among other things, "generate an advertisement set for the item that includes at least one associated advertisement having the item-specific visual element, the link, and at least one search term matching the at least one keyword," as recited in claim 1.

Calabria's paragraphs 69-72 are also cited in support of the rejection of claim 1. Specifically, paragraphs 69-72 are cited on page 2 of the Office Action and appear to be cited with respect to the element of claim 1 that recites, "generate an advertisement set for the item that includes at least one associated advertisement having the item-specific visual element, the link, and at least one search term matching the at least one keyword." However, paragraphs 69-72 are unrelated to this element of claim 1. Instead, paragraphs 69-72 are directed to ranking advertisements in descending order based on Revenue Per Impression (RPI). For example, paragraph 69 discloses "[f]or each Keyword, the advertisement, [landpage] is sorted in descending order of RPI (Keyword) and each is assigned a rank." Calabria's paragraphs 69-72 further indicate that RPI is based on click-through rates (ClickthruRate) and return on advertising investment (ROAI), and that paragraphs 69-72 provide ways of calculating ClickthruRate and ROAI. Accordingly, paragraphs 69-72 of Calabria do not disclose, teach, or suggest "generate an advertisement set for the item that includes at least one associated advertisement having the item-specific visual element, the link, and at least one search term matching the at least one keyword," as recited in claim 1.

Further, Calabria's paragraph 121 is cited in support of the rejection of claim 1. Specifically, paragraph 121 is cited on page 2 of the Office Action and appears to be cited with respect to the element of claim 1 that recites, "a plurality of advertisement generators that each use at least one algorithm to identify search terms corresponding to an item, determine at least one item-specific visual element, create a link to information about the item, and generate an advertisement set for the item." However, paragraph 121 of Calabria is unrelated to this element of claim 1. Instead, paragraph 121 describes that "the keyword advertisement management

system may include algorithms for selecting an advertisement 434, electing one or more keywords 436, and calculating a bid amount 438." Paragraph 121 does not disclose, teach, or suggest, among other things, "a plurality of advertisement generators that each use at least one algorithm to identify search terms corresponding to an item, determine at least one item-specific visual element, create a link to information about the item, and generate an advertisement set for the item," as recited in claim 1.

In sum, Calabria at paragraphs 52-55, 69-72, and 121 fails to teach or suggest "a plurality of advertisement generators" that each "identify search terms corresponding to an item," "determine at least one item-specific visual element," "create a link to information about the item", and "generate an advertisement set for the item that includes at least one associated advertisement having the item-specific visual element, the link, and at least one search term matching the at least one keyword," as recited in claim 1.

Furthermore, Ford does not disclose, teach, or suggest "a plurality of advertisement generators," where each of the generators "identify search terms corresponding to an item," "determine at least one item-specific visual element," "create a link to information about the item", and "generate an advertisement set for the item that includes at least one associated advertisement having the item-specific visual element, the link, and at least one search term matching the at least one keyword." as recited in claim 1, and thus cannot make up for Calabria's failure to disclose, teach, or suggest these elements.

B.   Calabria Does Not Disclose, Teach, or Suggest the "Advertisement Manager" Recited in Claim 1

Claim 1 further recites a system that, among other things, implements an "advertisement manager" that performs several functions including determining "whether an advertisement set is currently submitted to an advertisement placement service for a set of keywords including the at least one keyword [for which advertisements are requested to be placed]." The "advertisement manager" recited by claim 1 "selects one of the generated advertisement sets for submission to the advertisement placement service" when "an advertisement set is not currently submitted to the advertisement placement service for the set of keywords." When "an advertisement set is currently submitted to the advertisement placement service for the set of keywords," the

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advertisement manager recited by claim 1 "determines whether at least one of the generated advertisement sets would avoid conflict with the submitted advertisement set with respect to the at least one search term of the submitted advertisement set." Further, "when at least one of the generated advertisement sets is determined to avoid conflict," the advertisement manager "selects one of the generated advertisement sets determined to avoid conflict" and the selected advertisement set is received by an "advertisement submitter."

It is admitted in the Office Action at Page 3 that "Calabria does not explicitly teach determines whether at least one of the generated advertisements sets would avoid conflict with the submitted advertisement set with respect to the at least one search term of the submitted advertisement set and, when at least one of the generated advertisement sets is determined to avoid conflict, selects one of the generated advertisement sets determined to avoid conflict." Further, it is asserted on pages 3 and 4 of the Office Action that Ford at col. 11, line 58 through col. 12, line 15 "teaches in the event that a given keyword maps to multiple advertisements database manager may pick randomly among the candidate advertisement or alternatively the user may impose special condition such as requiring a round robin scheduling, so as to avoid repetitions of specific advertisements." It is implied in the Office Action that "pick[ing] randomly among the candidate advertisement[s] or . . . impos[ing] special condition such as requiring a round robin scheduling, so as to avoid repetitions of specific advertisements" as taught by Ford disclose, teaches, or suggests "determines whether at least one of the generated advertisement sets would avoid conflict with the submitted advertisement set with respect to the at least one search term of the submitted advertisement set and, when at least one of the generated advertisement sets is determined to avoid conflict, selects one of the generated advertisement sets determined to avoid conflict," as recited in claim 1. Applicants disagree.

Ford at col. 12, lines 9-15 discloses that "in the event that a given keyword maps to multiple advertisements," the "database manager 34 may pick randomly among the candidate advertisements" or "the user may choose to specify a ranking amongst the acceptable candidates, or impose special conditions, such as requiring a round robin scheduling, so as to avoid *repetition* of specific advertisements." Thus, Ford discloses avoiding repetitions, whereas claim 1 recites avoiding conflicts.

Furthermore, claim 1 recites that the "advertisement manager…determines whether at least one of the generated advertisement sets would avoid conflict with the submitted advertisement set with respect to the at least one search term of the submitted advertisement set." When it is determined that an advertisement set would avoid conflict, the "advertisement manager… selects one of the generated advertisement sets determined to avoid conflict." Ford generally does not teach that "generated advertisement sets would avoid conflict with the submitted advertisement set" and so cannot teach an "advertisement manager…[that] selects one of the generated advertisement sets determined to avoid conflict" when "at least one of the generated advertisement sets is determined to avoid conflict." Therefore, Ford fails to disclose, teach, or suggest every feature of independent claim 1 at least for the above reasons.

In light of at least the foregoing, Applicants respectfully submit that claim 1 is allowable under 35 U.S.C. § 103 over Calabria in view of Ford. Accordingly, reversal of the rejection on this basis is respectfully requested.

<div align="center">Independent Claim 9</div>

Claim 9 recites a method in a computer system for placing advertisements for an advertiser offering an item for consumption, the method comprising:

under the control of one or more computer systems configured with executable instructions,

using each of a plurality of different algorithms to at least:

identify search terms corresponding to the item;

determine at least one item-specific visual element;

create a link to information about the item; and

generate an advertisement set for the item that each include at least one associated advertisement having the item-specific visual element, the link, and one or more of the identified search terms;

submitting one or more of the generated advertisement sets to an advertisement placement service with a bid amount;

determining whether at least one of the generated advertisement sets would avoid conflict with the submitted one or more advertisement sets with respect to the at least one search term of the submitted one or more advertisement sets;

when at least one of the generated advertisement sets is determined to avoid conflict:

selecting, based at least in part on the identified search terms of the submitted one or more advertisement sets, an unsubmitted advertisement set that avoids conflict with the submitted one or more advertisement sets; and

submitting the selected unsubmitted advertisement set to the advertisement placement service.

In the Office Action, the rejection of claim 9 cites the same paragraphs of the same references as the rejection of claim 1. For example, with respect to the elements of claim 9 reciting "a plurality of different algorithms" each of which "identify search terms corresponding to the item," "determine at least one item-specific visual element," "create a link to information about the item", and "generate an advertisement set for the item that each include at least one associated advertisement having the item-specific visual element, the link, and one or more of the identified search terms," the Office Action at pages 4 and 5 alleges that these elements are disclosed by Calabria at paragraphs 52-55, 69-72, and 121. Further, for example, the rejection of claim 9 cites the same paragraphs of the same references as the rejection of claim 1 with respect to the elements of claim 9 reciting "determining whether at least one of the generated advertisement sets would avoid conflict with the submitted one or more advertisement sets with respect to the at least one search term of the submitted one or more advertisement sets" and "when at least one of the generated advertisement sets is determined to avoid conflict . . . selecting . . . an unsubmitted advertisement set that avoids conflict with the submitted one or more advertisement sets."

Therefore, at least for reasons including some of those discussed above in connection with claim 1, Applicants respectfully submit that claim 9 is allowable under 35 U.S.C. § 103

over Calabria in view of Ford. Accordingly, reversal of the rejection on this basis is respectfully requested.

Independent Claim 35

Claim 35 recites a computer program product embedded in a computer-readable medium and including processor-executable instructions for placing advertisements, comprising:

program code for using a plurality of different algorithms to:

identify search terms corresponding to the item;

determine at least one item-specific visual element;

create a link to information about the item;

generate an advertisement set for the item that each include at least one associated advertisement having the item-specific visual element, the link, and at least one search term of the identified search terms;

program code for associating each generated advertisement set with a corresponding bid amount;

program code for determining whether an advertisement set is currently submitted for the search terms included in the generated advertisement sets;

program code for, when an advertisement set is not currently submitted for the search terms included in the generated advertisement sets, submitting a request specifying a selected advertisement set for the set of keywords;

program code for, when one or more advertisement sets are currently submitted for at least one search term included with at least one corresponding generated advertisement set:

determining whether one or more unsubmitted generated advertisement sets would avoid conflict with the one or more currently submitted advertisement sets with respect to the at least one search term of the one or more currently submitted advertisement sets; and

when one or more of the generated advertisement sets is determined to avoid conflict:

selecting one of the unsubmitted generated advertisement sets determined to avoid conflict; and

submitting the selected one or more unsubmitted generated advertisement sets determined to avoid conflict.

In the Office Action, the rejection of claim 35 cites the same paragraphs of the same references as the rejections of claims 1 and 9. For example, the Office Action at page 6 alleges that Calabria at paragraphs 52-55, 69-72, and 121 discloses the elements of claim 35 that recite, "program code for using a plurality of different algorithms" to "identify search terms corresponding to the item," "determine at least one item-specific visual element," "create a link to information about the item," and "generate an advertisement set for the item that each include at least one associated advertisement having the item-specific visual element, the link, and at least one search term of the identified search terms." Further, for example, the rejection of claim 35 cites the same paragraphs of the same references as the rejection of claims 1 and 9 with respect to the elements of claim 9 reciting "determining whether one or more unsubmitted generated advertisement sets would avoid conflict with the one or more currently submitted advertisement sets with respect to the at least one search term of the one or more currently submitted advertisement sets" and "when one or more of the generated advertisement sets is determined to avoid conflict . . . selecting one of the unsubmitted generated advertisement sets determined to avoid conflict."

Therefore, at least for reasons including some of those discussed above in connection with claims 1 and 9, Applicants respectfully submit that claim 35 is allowable under 35 U.S.C. § 103 over Calabria in view of Ford.. Accordingly, reversal of the rejection on this basis is respectfully requested.

<div align="center">Dependent Claims</div>

The rejections of claims 2, 4, 6-8, 11-14, 16-21, and 36 are improper for at least the reason that they depend from one of allowable independent claims 1, 9, and 35. Aspects of these dependent claims are not disclosed, taught, or suggested by Calabria or Ford, either individually or combined, for reasons including those provided above. Applicants reserve, without prejudice, the right to present arguments directed to such aspects as deemed necessary.

8. CONCLUSION

For these reasons, it is respectfully submitted that the rejection should be reversed.

Respectfully submitted,

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9. CLAIMS APPENDIX

1.   (Previously Presented) A system for requesting advertisements to be placed along with content on behalf of an advertiser in association with at least one keyword, comprising:

one or more computer systems that collectively implement at least:

a plurality of advertisement generators that each use at least one algorithm to identify search terms corresponding to an item, determine at least one item-specific visual element, create a link to information about the item, and generate an advertisement set for the item that includes at least one associated advertisement having the item-specific visual element, the link, and at least one search term matching the at least one keyword;

a fee calculator that at least calculates fee amounts for each of the advertisement sets generated by the advertisement generators based at least in part on anticipated profitability of the advertisement sets;

an advertisement manager that, at least:

receives from the advertisement generators advertisement sets,

receives from the fee calculator a fee amount for each of the generated advertisement sets,

determines whether an advertisement set is currently submitted to an advertisement placement service for a set of keywords including the at least one keyword,

when an advertisement set is not currently submitted to the advertisement placement service for the set of keywords, selects one of the generated advertisement sets for submission to the advertisement placement service; and

when an advertisement set is currently submitted to the advertisement placement service for the set of keywords, determines whether at least one of the generated advertisement sets would avoid conflict with the submitted advertisement set with respect to the at least one search term of the submitted advertisement set and, when at least one of the generated advertisement sets is determined to avoid conflict, selects one of the generated advertisement sets determined to avoid conflict; and

an advertisement submitter that, when an advertisement set is not currently submitted to the advertisement placement service for the set of keywords at least:

receives from the advertisement manager the selected advertisement set and the fee amount for the selected advertisement set, and

sends to the advertisement placement service a request to place the selected advertisement set along with content associated with the keyword at the fee amount of the selected advertisement set.

2.   (Original) The computer system of claim 1 wherein the fee amount is a bid for an auction.

3.   (Canceled)

4   (Previously Presented) The computer system of claim 1 wherein the advertisement manager selects one of the generated advertisement sets-based at least in part on a determined likelihood of users selecting the advertisement of the advertisement set when the advertisement is placed along with the content associated with the keyword.

5.   (Canceled)

6.   (Previously Presented) The computer system of claim 1 including multiple advertisement submitters where each advertisement submitter is associated with a respective different advertisement placement service.

7.   (Previously Presented) The computer system of claim 1 including a database containing statistics relating to placements of advertisements and wherein the fee calculator determines anticipated profitability based at least in part on analysis of the statistics.

8.   (Original) The computer system of claim 7 wherein the statistics include average cost-per-click of an advertisement and average revenue-per-click.

9.   (Previously Presented) A method in a computer system for placing advertisements for an advertiser offering an item for consumption, the method comprising:

under the control of one or more computer systems configured with executable instructions,

using each of a plurality of different algorithms to at least:

identify search terms corresponding to the item;

determine at least one item-specific visual element;

create a link to information about the item; and

generate an advertisement set for the item that each include at least one associated advertisement having the item-specific visual element, the link, and one or more of the identified search terms;

submitting one or more of the generated advertisement sets to an advertisement placement service with a bid amount;

determining whether at least one of the generated advertisement sets would avoid conflict with the submitted one or more advertisement sets with respect to the at least one search term of the submitted one or more advertisement sets;

when at least one of the generated advertisement sets is determined to avoid conflict:

selecting, based at least in part on the identified search terms of the submitted one or more advertisement sets, an unsubmitted advertisement set that avoids conflict with the submitted one or more advertisement sets; and

submitting the selected unsubmitted advertisement set to the advertisement placement service.

10.   (Previously Presented) The method of claim 9 further comprising:

analyzing, based at least in part on profit resulting from user selection of submitted one or more advertisement sets, the effectiveness of the one or more submitted advertisement sets, and wherein said selecting is based at least in part on said analyzing.

11.   (Previously Presented) The method of claim 9 wherein the advertisement placement service places the advertisements associated with the submitted one or more advertisement sets with search results associated with a search term matching the at least one common keyword.

12.   (Previously Presented) The method of claim 9 wherein the advertisement placement service places the advertisements associated with the submitted one or more advertisement sets with content associated with a keyword that matches the one or more identified search terms of the submitted one or more advertisement sets.

13.   (Previously Presented) The method of claim 9 including calculating the bid-amount based at least in part on advertising metrics collected by the advertiser.

14.   (Previously Presented) The method of claim 13 including adjusting the bid amount based at least in part on the advertising metrics.

15.   (Canceled)

16.   (Previously Presented) The method of claim 9 wherein selecting the unsubmitted-advertisement set is based at least in part on the effectiveness of an advertisement generator that generated the advertisement sets.

17.   (Previously Presented) The method of claim 9 including calculating the bid amount based at least in part on a profit-based algorithm.

18.   (Previously Presented) The method of claim 9 including calculating the bid amount based at least in part on a revenue-based algorithm.

19.   (Original) The method of claim 9 wherein the advertisement placement service is a search engine service.

20.   (Previously Presented) The method of claim 9 including filtering the generated advertisement sets based at least in part on frequency of keywords in content.

21.   (Previously Presented) The method of claim 9 including filtering the generated advertisement sets based at least in part on desirability of keywords.

22-34. (Canceled)

35.   (Previously Presented) A computer program product embedded in a computer-readable medium and including processor-executable instructions for placing advertisements, comprising:

program code for using a plurality of different algorithms to:

identify search terms corresponding to the item;

determine at least one item-specific visual element;

create a link to information about the item;

generate an advertisement set for the item that each include at least one associated advertisement having the item-specific visual element, the link, and at least one search term of the identified search terms;

program code for associating each generated advertisement set with a corresponding bid amount;

program code for determining whether an advertisement set is currently submitted for the search terms included in the generated advertisement sets;

program code for, when an advertisement set is not currently submitted for the search terms included in the generated advertisement sets, submitting a request specifying a selected advertisement set for the set of keywords;

program code for, when one or more advertisement sets are currently submitted for at least one search term included with at least one corresponding generated advertisement set:

determining whether one or more unsubmitted generated advertisement sets would avoid conflict with the one or more currently submitted advertisement sets with respect to the at least one search term of the one or more currently submitted advertisement sets; and

when one or more of the generated advertisement sets is determined to avoid conflict:

selecting one of the unsubmitted generated advertisement sets determined to avoid conflict; and

submitting the selected one or more unsubmitted generated advertisement sets determined to avoid conflict.

36.   (Previously Presented) The method of claim 9, further comprising:

detecting a potential conflict among at least two of the generated advertisement sets with respect to the identified search terms for the at least two generated advertisement sets; and

submitting the at least two generated advertisement sets for which the potential conflict was detected in a round-robin manner.

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10. EVIDENCE APPENDIX

None.

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11. RELATED PROCEEDINGS APPENDIX

None.